

**DEPARTMENT OF NATURAL RESOURCES**  
**FOREST MANAGEMENT DIVISION**  
**AU SABLE RIVER NATURAL RIVER ZONING**

(By authority conferred on the natural resources commission by section 13 of Act No. 231 of the Public Acts of 1970, being S281.773 of the Michigan Compiled Laws)

**R 281.321 Definitions.**

Rule 1. As used in these rules:

- (a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.
- (b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:
  - (i) Garages.
  - (ii) Residential storage sheds or barns.
  - (iii) Pump houses.
  - (iv) Wells.
  - (v) Private access roads.
  - (vi) Sanitary facilities.
  - (vii) Electrical service lines.
- (c) "Bluff" means a steep bank which rises sharply from the river's edge.
- (d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.
- (e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.
- (f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.
- (g) "Commission" means the natural resources commission.
- (h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.
- (i) "Director" means the director of the department of natural resources.
- (j) "Family" means either of the following:
  - (i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than 2 additional unrelated persons, and who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.

(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.

(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.

(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.

(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.

(n) "Front" means that segment of a lot or parcel abutting the river's edge of the mainstream or tributary.

(o) "Front yard" means setback as provided for in R 281.327(2)(a)(iv).

(p) "Home occupation" means a gainful occupation traditionally and historically carried on in the home as a use clearly incidental and secondary to the use of the home as a dwelling place.

(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of river and tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies which are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.

(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.

(s) "Lot area" means the area inside the lot lines.

(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or designated tributaries.

(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds.

(v) "Natural river district" means the Au Sable river natural river district as described in the provisions of R 281.325.

(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

(x) "Rear yard" means that yard opposite the front yard and includes the required minimum horizontal distance between any portion of a principal or accessory building and the rear lot line.

(y) "Reforestation" means the renewal of vegetative cover by seeding, planting or transplanting.

(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.

(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.

(bb) "Side yard" means the required minimum horizontal distance between any portion of a principal or accessory building and the side lot line.

(cc) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.

(dd) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.

(ee) "Structure" means anything that is constructed, erected, or moved to or from any premises which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.

(ff) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.

(gg) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon is in compliance with all provisions of these rules.

(hh) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests as provided for by these rules.

History: 1990 AACCS.

### **R 281.322 Purpose; intent; scope.**

Rule 2. (1) The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Au Sable river, a designated natural river, promulgates these zoning rules for the following purposes:

(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Au Sable river and adjoining land.

(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.

(d) To provide for uses that complement the natural characteristics of the natural river system.

(e) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.

(f) To achieve the goals and objectives of the Au Sable river natural river plan.

(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.

(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.

History: 1990 AACCS.

### **R 281.323 Construction of language; severability.**

Rule 3. (1) All of the following rules of construction apply to the text of these rules:

(a) The particular shall control over the general.

(b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall control.

(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

(e) A "building" or "structure" includes any part thereof.

(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

(i) "And" indicates that all of the connected items, conditions, or provisions shall apply.

(ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.

(iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.

(i) Terms not defined in these rules shall have the meanings customarily assigned to them.

(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.

History: 1990 AACS.

**R 281.324 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks.**

Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel on the Au Sable river main stream, south branch and north branch, and a minimum average width of 150 feet on all other designated tributaries. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.

(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.

(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.329.

(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.329.

(5) Home occupations shall conform to all of the following requirements:

(a) Only members of the immediate family who reside on the premises, plus 1 additional person, may engage in home occupations.

(b) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 20% of the aboveground floor area of the dwelling unit or 300 square feet, whichever is greater. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.

(c) There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home occupation in the dwelling; however, there may be 1 sign which is not more than 2 square feet in area, is nonilluminated, and is mounted against the wall of the dwelling. The home occupation shall be conducted and operated entirely within the confines of the dwelling.

(d) The home occupation shall be operated in its entirety within the principal dwelling unit and attached or detached garage.

(e) Only products produced on the premises by a home occupation may be sold. Only services provided on the premises by a home occupation may be sold. This does not preclude the storage of products not produced on the premises if such storage does not exceed the floor area

requirement specified in subdivision (b) of this subrule or contain explosive or highly flammable material.

(f) Traffic shall not be generated by a home occupation in a volume that is more than 20% of the average volume normally expected for the type of dwelling unit to which the home occupation is associated. Average volumes shall be based on current trip generation guidelines as issued in the 1987 edition of the institute of transportation engineers' publication entitled "Trip Generation, fourth edition," which are herein adopted by reference. The guidelines are available for review or purchase from the Land and Water Management Division of the Michigan Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909, or may be purchased from the Institute of Transportation Engineers, 525 School Street SW, Suite 410, Washington, DC 20024-2729, at a cost of \$125.00.

(g) Equipment or a process shall not be used in a home occupation if it creates noise, vibration, glare, fumes, odors, or electrical interference off the premises which is detectable to the normal senses and the occupation is conducted in a single-family dwelling unit or its associated garage or outside the dwelling unit if the occupation is conducted in other than a single-family dwelling unit or its associated garage. Equipment or a process shall not be used if it creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage off the premises.

(6) Within the natural river district, a 75-foot minimum restrictive cutting belt shall be maintained on each side of the main stream, south branch and north branch of the Au Sable river, and a 50-foot minimum restrictive cutting belt shall be maintained on each side of all other designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:

(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac may be removed (b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, or public utility lines to service private single-family dwellings and other permitted uses is permitted upon approval of the zoning administrator.

(c) Camping is not permitted in the natural vegetation strip.

(7) In addition to the signage standards specified in R 281.327, all signs shall be in compliance with all of the following provisions:

(a) Be stationary with no moving parts.

(b) Be constructed of natural materials and earth tone colors to blend with the surrounding environment.

(c) Not be attached to trees or shrubs unless the sign is located outside the natural vegetation strip.

(d) Not be illuminated unless it can be demonstrated that illumination is necessary for the purposes of traffic safety or other such purpose, in which case the zoning administrator may approve an illuminated sign.

(8) Private boat docks shall be in conformance with all of the following requirements:

(a) Docks shall not be more than 4 feet in width and 12 feet in length, with not more than 4 feet of the dock extending over the edge of the river.

(b) Docks shall be designed, constructed, and maintained to blend with natural surroundings. The use of natural, native materials is encouraged.

(c) Unless provided for within these rules, only 1 dock shall be constructed per lot.

(d) Where regulations permit multiple docks, such docks may be placed side by side.

History: 1990 AACCS.

**R 281.325 Boundaries; interpretation of boundaries; filing of zoning map.**

Rule 5. (1) The boundaries of the Au Sable river natural river district shall be as described in these rules and as depicted on the certified Au Sable river natural river zoning map. The Au Sable river natural river zoning district comprises an area which is described as follows:

(a) The Au Sable river from the confluence of Kolka creek and Bradford creek in section 23, T28N, R4W in Crawford county to Loud dam in section 21, T24N, R6E in Iosco county.

(b) Kolka creek from the outfall of Lynn lake in section 26, T29N, R4W in Otsego county to its confluence with Bradford creek in section 23, T28N, R4W in Crawford county.

(c) Bradford creek from the outfall of Big Bradford lake in section 6, T28N, R3W in Crawford county to its confluence with Kolka creek in section 23, T28N, R4W.

(d) East branch, Au Sable river, from the outfall of Barnes lake in section 7, T28N, R2W in Crawford county to its confluence with the Au Sable river in section 8, T26N, R3W.

(e) South branch, Au Sable river, from highway M-76 in section 5, T23N, R1W in Roscommon county to its confluence with the Au Sable river in section 8, T26N, R1W in Crawford county.

(f) Douglas creek from its headwaters in section 16, T25W, R1W in Crawford county to its confluence with the south branch of the Au Sable river in section 18, T25N, R1W.

(g) Thayer creek from its headwaters in section 16, T25N, R2W in Crawford county to its confluence with the south branch of the Au Sable river in section 7, T25N, R1W.

(h) Hudson creek from its headwaters in section 26, T24N, R2W in Roscommon county to its confluence with the south branch of the Au Sable river in section 12, T24N, R2W.

(i) Robinson creek from its headwaters in section 7, T23N, R2W in Roscommon county to its confluence with the south branch of the Au Sable river in section 5, T24N, R2W.

(j) Beaver creek from its headwaters in section 25, T25N, R4W in Crawford county to its confluence with the south branch of the Au Sable river in section 31, T25N, R2W.

(k) East creek from its headwaters in section 13, T24N, R1W in Roscommon county to its confluence with the south branch of the Au Sable river in section 16, T24N, R1W.

(l) South creek from its headwaters in section 35, T24N, R1W in Roscommon county to its confluence with the south branch of the Au Sable river in section 28, T24N, R1W.

(m) North branch, Au Sable river, from Ski Slope drive in section 34, T30N, R3W in Otsego county to its confluence with the Au Sable river in section 1, T26N, R1W in Crawford county.

(n) Turtle creek from the outfall of Turtle lake in section 33, T30N, R2W in Otsego county to its confluence with the north branch of the Au Sable river in section 20, T29N, R2W.

(o) Chub creek from the outfall of Bridge lake in section 23, T29N, R3W in Otsego county to its confluence with the north branch of the Au Sable river in section 20, T29N, R2W.

(p) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 23, T27N, R1W in Crawford county to its confluence with the north branch of the Au Sable river in section 27, T27N, R1W.

(q) West branch, Big creek, from the outfall of Caulkins lake in section 14, T29N, R1W in Otsego county to its confluence with the east branch of Big creek in section 23, T27N, R1W in Crawford county.

(r) Middle branch, Big creek, from the outfall of West Twin lake in section 32, T29N, R1E in Montmorency county to its confluence with the east branch of Big creek in section 13, T27N, R1W in Crawford county.

(s) East branch, Big creek, from the north section line of section 27, T28N, R1E in Oscoda county to its confluence with the west branch of Big creek in section 23, T27N, R1W, in Crawford county.

(t) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 24, T26N, R1E in Oscoda county to its confluence with the Au Sable river in section 1, T26N, R1E.

(u) West branch, Big creek, from its headwaters in section 1, T24N, R1E in Ogemaw county to its confluence with the east branch of Big creek in section 24, T26N, R1E in Oscoda county.

(v) East branch, Big creek, from its headwaters in section 10, T25N, R2E in Oscoda county to its confluence with the west branch of Big creek in section 24, T26N, R1E.

(w) Sohn creek from its headwaters in section 20, T27N, R1E in Oscoda county to its confluence with the Au Sable river in section 4, T26N, R1E.

(x) Beaver creek from the east section line of section 26, T17N, R1E in Oscoda county to its confluence with the Au Sable river in section 3, T26N, R1E.

(y) Wolf creek from its headwaters in section 19, T26N, R3E in Oscoda county to its confluence with the Au Sable river in section 7, T26N, R3E.

(z) Loud creek from its headwaters in section 29, T26N, R3E in Oscoda county to its confluence with the Au Sable river in section 17, T26N, R3E.

(aa) Perry creek from the outfall of Perry lake in section 9, T27N, R3E in Oscoda county to its confluence with the Au Sable river in section 9, T26N, R3E.

(bb) Comins creek from its headwaters in section 27, T27N, R3E in Oscoda county to its confluence with the Au Sable river in section 11, T26N, R3E.

(cc) Glennie creek from its headwaters in section 30, T27N, R4E in Oscoda county to its confluence with the Au Sable river in section 7, T26N, R4E.

(dd) Nine Mile creek from its headwaters in section 28, T26N, R4E in Oscoda county to its confluence with the Au Sable river in section 23, T26N, R4E.

(ee) Blockhouse creek from its headwaters in section 28, T27N, R4E in Oscoda county to its confluence with the Au Sable river in section 20, T26N, R5E, in Alcona county.

(ff) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (ee) of this subrule.

(2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following rules shall apply:

(a) Boundaries indicated as approximately following the centerline of streets or highways shall be construed to follow such centerline.

(b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

(c) Boundaries indicated as approximately following city, village, township, or county boundary lines shall be construed as following such city, village, township, or county boundary lines.

(d) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.

(e) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual



shorelines; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline.

(f) Boundaries indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official

zoning map shall be determined by the scale of the map.

(g) Where physical or natural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.

(h) Insofar as a portion of all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public right-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

(3) Certified copies of the Au Sable river natural river zoning map shall be filed with all of the following entities:

- (a) The state tax commission.
- (b) Local tax assessing officers.
- (c) Township and county clerks.
- (d) The natural rivers unit of the Michigan department of natural resources.

History: 1990 AACCS.

### **R 281.326 Zoning permits; site plans; certificates of zoning compliance.**

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.327(1). Plans submitted in application of a zoning permit shall contain the necessary information for determining compliance with these rules.

(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. Such site plan shall include the entire area proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval if such adjustments are deemed necessary to ensure that the proposed development meets all standards contained in these rules and does not excessively disturb the natural river environment or the general character of the area. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:

- (a) Site plan drawn to scale, with the scale indicated.
- (b) Property dimensions.
- (c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.

- (g) Bluff heights.
- (h) Entrances to public streets.
- (i) A description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) The location and description of the method to dispose of sanitary wastes.
- (l) Proposed landscaping.
- (m) The location of footpaths.
- (n) Signs proposed, including the size, location, and material.
- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.
- (r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:

- (i) Soil types.
- (ii) Topography.
- (iii) Building elevations.
- (iv) Site photographs.
- (v) Anticipated traffic volumes.
- (vi) Traffic circulation patterns.
- (vii) Other pertinent site information.

(3) A building, structure, lot, or use for which a zoning permit has been issued shall not be occupied or used until the zoning administrator has, after final inspection, issued a certificate of zoning compliance indicating compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. Buildings accessory to dwellings shall not require separate certificates of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling when shown on the site plan and when completed at the same time as such dwellings. A record of all certificates issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy required by local building codes.

History: 1990 AACs.

### **R 281.327 Land use and development standards.**

Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:

(a) Exempt uses are uses permitted by right which are not subject to receipt of a zoning permit. Exempt uses include all of the following:

- (i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.
- (ii) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.324(6)(b).

(iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.

(iv) The operation of licensed motor vehicles on dedicated public roads or private roads designed to provide access to a permitted use.

(v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as described in R 281.324(6).

(vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.

(vii) Residential identification signs subject to the provisions of R 281.324(7) and provided that both of the following provisions are complied with:

(A) Signs shall serve to identify the name of dwelling occupants only and not to advertise a business or service.

(B) One sign shall be permitted per lot or parcel, which shall not be more than 1 square foot in area.

(viii) Real estate signs, if all the following provisions are complied with:

(A) A sign shall be of a temporary nature and shall not be more than 4 square feet.

(B) One sign shall be allowed per parcel, which shall not be located in the natural vegetation strip.

(C) A sign shall be removed within 14 days of the sale of the advertised parcel.

(ix) "No Trespassing" signs if such signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.

(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:

(i) Single-family dwellings, if all the following provisions are complied with:

(A) Only 1 dwelling shall be permitted per lot of record.

(B) Each lot shall be a minimum of 50,000 square feet.

(C) A dwelling lot along the Au Sable river main stream, north branch or south branch, shall have a minimum average width of 200 feet throughout its length. A dwelling lot along any other designated tributary shall have a minimum average width of 150 feet throughout its length.

(D) Building setback for lots, including all appurtenances and accessory buildings, shall be a minimum of 200 feet from the ordinary high watermark on the main stream, north branch and south branch, and 100 feet on all other designated tributaries. The setback may be decreased 1 foot for every 1 foot rise in bank height to a minimum of 150 feet from the ordinary high watermark on the main stream, north branch and south branch, and to a minimum of 75 feet from the ordinary high watermark on all other designated tributaries. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.

(E) Side yards shall be a minimum of 10 feet from side lot lines.

(F) Rear yard setback shall be a minimum of 25 feet from the rear lot line. In many instances, the rear lot line of lots with river frontage will coincide with the right-of-way line of a public or private road.

(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision; however, the rear yard setback may be reduced to 15 feet.

- (iii) A private boat dock.
  - (iv) Utility lines to service private, single-family dwellings.
  - (v) Disposal fields and septic tanks, if all of the following provisions are complied with:
    - (A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.
    - (B) A septic tank or absorption field shall not be located closer than 100 feet to any surface or subsurface drainage system that enters into the Au Sable river or its designated tributaries.
    - (C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.
  - (vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.
  - (vii) Residential single-family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.
  - (viii) Home occupations.
  - (ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing, natural, land surface.
- (c) The Au Sable river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than to be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Au Sable river natural river plan and these rules, and to ensure compatibility with adjacent uses, such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:
- (i) Detached rental cabins, if all of the following provisions are complied with:
    - (A) Cabins shall not be operated as motels, but may offer light housekeeping services.
    - (B) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.
    - (C) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum of 40 feet from all property lines and 200 feet from the ordinary high watermark.
    - (D) Parking for the cabins shall be limited to 2 spaces per cabin and the spaces shall be located to the rear (landward side) of the building.
    - (E) The exterior of a cabin shall be constructed of natural materials with natural or earth tone colors to blend with the surrounding environment.
    - (F) Cabins or grounds shall not contain signage within the district, except for directional signage that is not more than 1 square foot in area per sign. Directional signage shall be for the purposes of directing vehicular and pedestrian traffic to cabins and facilities and for identifying individual cabins. Signage shall not be visible from the river.
    - (G) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.324 and both of the following provisions:
      - (1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.

(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:

(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.

(B) Campgrounds shall be a minimum of 10 acres.

(C) A commercial enterprise shall not be permitted to operate in the campground, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided in campgrounds that have more than 140 sites. The exterior of such buildings shall be constructed of natural material. The building shall not be more than 1 story in height.

(D) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 50 feet from all property lines and 300 feet from the ordinary high watermark.

(E) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material indigenous to the area or as approved by the zoning review board.

(F) Vehicular parking shall be limited to 2 spaces per individual camping site.

(G) A camping site shall not have more than 4 sites per acre.

(H) A campground shall not contain signage within the district, except for directional signage that is not more than 1 square foot in area per sign. Directional signage shall be for the purposes of directing vehicular and pedestrian traffic to camping sites and facilities and for identifying individual campsites. Signage shall not be visible from the river.

(I) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:

(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.

(2) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

(iii) Canoe, boat, and other watercraft liveries, if all of the following provisions are complied with:

(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.

(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.

(C) Other than the rental of canoes and boats, other commercial enterprises shall not be permitted to operate.

(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The exterior of the building shall be constructed of natural material. The building shall not be more than 1 story in height.

(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

(F) The livery shall not contain signage within the district, except for directional signage that is not more than 1 square foot in area per sign. Directional signage shall be for the purpose of directing patrons to parking areas and launch sites. Signage shall not be visible from the river.

History: 1990 AACCS.

**R 281.328 Application and approval; procedures and standards; principal uses and special uses.**

Rule 8. (1) The application for a principal use shall be submitted and processed under the following procedures:

(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and returned to the zoning administrator. A completed application shall contain all of the following information:

- (i) A completed application form signed by the applicant or the applicant's representative.
- (ii) Two copies of a site plan that meets the requirements of R 281.326(2).
- (iii) Evidence of ownership or legal interest in the property affected by the application for a principal use.

(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.

(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.

(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.

(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.

(2) The application for a special use permit shall be submitted and processed under the following procedures:

(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and returned to the zoning administrator. A completed application shall contain all of the following information and attachments:

- (i) A completed application form signed by the applicant or the applicant's representative.
- (ii) Eight copies of a site plan that meets the requirements of R 281.326(2).
- (iii) Evidence of ownership or legal interest in the property affected by the application for a special use.

(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.

(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.

(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:

(i) One notice shall be published in a newspaper which circulates in the township in which the proposal is located.

(ii) Notice shall be sent by first-class mail or personal delivery to the owners of property for which approval is being considered and to all persons identified in subdivision (a)(iv) of this subrule.

(iii) Notice shall also be sent to all of the following entities:

(A) The natural rivers unit of the Michigan department of natural resources.

(B) Local tax assessing officials.

(C) Township and county clerks.

(D) Local building inspectors.

(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.327(3), be satisfied:

(i) That the purposes noted in R 281.322 are accomplished.

(ii) That the proposed special use is compatible with adjacent uses of land and the natural environment and that the capacities of public services and facilities are adequate.

(iii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.

(iv) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.

(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.

(f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.

(g) A special use granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.

(h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.

(i) Any application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.

(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.

(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was used is completed.

History: 1990 AACs.

## **R 281.329 Variances and variance hearings.**

Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board, after a public hearing, or in certain instances by the zoning administrator, to allow a modification from such standard establishing area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is in harmony with the general purposes and intent of these rules.

(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:

- (a) How substantial the variance is in relation to the zoning requirements.
- (b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.
- (c) Whether the difficulty can be overcome by some feasible method other than a variance.
- (d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.
- (e) Whether the plight of the landowner is due to circumstances unique to his or her property not created by the landowner.
- (f) Whether the variance may result in a material adverse effect on the environment.

(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact detailing the reasons for approval or denial of the minor variance request. Minor variances include any of the following:

- (a) Setbacks for uses on lawful lots which are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.
- (b) Setbacks for uses on lawful nonconforming lots, including lots within subdivisions, which are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.

(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, in its sole discretion, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors are found to exist:

- (a) That property cannot be used in a manner consistent with existing zoning.
- (b) That the hardship results from the application of these rules to the applicant's property.
- (c) That the hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.
- (d) That the hardship is not the result of the applicant's own actions.
- (e) That the hardship is peculiar to the applicant's own property.



(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.

(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:

(a) The use will be harmonious with and in accordance with the general objectives of the Au Sable river natural river plan.

(b) The use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the general vicinity.

(c) The use will not be hazardous or disturbing to existing or future neighboring uses.

(d) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such service.

(e) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the local community.

(f) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, the general welfare, or the environmental quality of the district because of the excessive production of traffic, noise, smoke, fumes, glare or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.

(g) The use will be consistent with the intent and purposes of these rules.

(h) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population resulting in degradation to the river and district.

(i) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.

(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.328(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.

(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.

(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.330, which regulates continued use.

History: 1990 AACs.

**R 281.330 Nonconforming uses, lots, and structures.**

Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended which would be prohibited, regulated, or restricted under the terms of these rules or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit limited expansion of certain legal nonconforming uses and structures.

(2) Any nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.329.

(3) Where, at the effective date of the promulgation or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, such use may be continued if it remains otherwise lawful, subject to all of the following provisions:

(a) Such nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of promulgation or amendment of these rules.

(b) Such nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of promulgation or amendment of these rules, unless such move would result in a greater degree of conformity with these rules.

(c) If such nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of such land shall conform to the requirements specified by these rules.

(4) Where a lawful structure exists at the effective date of promulgation or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, such structure may be continued if it remains lawful, subject to all of the following provisions:

(a) Such structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single-family dwelling is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming dwelling, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and other building requirements. Expansion of a lawful, nonconforming single-family dwelling shall be handled as a variance pursuant to the provisions of R 281.329.

(b) If such nonconforming structure is destroyed by any means to an extent of more than 60% of its replacement cost, it shall not be reconstructed for its original nonconforming use.

(c) Such nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such structure at the effective date of promulgation or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.

History: 1990 AACCS.

**R 281.331 Zoning administrator and zoning review board; appointment; duties.**

Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.

(2) The duties of the zoning administrator include the following:

(a) Provide necessary forms and applications and receive and process applications.

(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.

(c) Conduct site inspections to ensure compliance with these rules.

(d) Issue any authorized permits and certificates of zoning compliance.

(e) Identify and record information relative to nonconformities.

(f) Maintain files of applications, permits, and other relevant documents.

(g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.

(h) Act on variances as permitted by the provisions of R 281.329(3).

(3) The duties of the zoning review board are as follows:

(a) Adopt rules of procedure governing the transaction of its business.

(b) Act upon requests for special use permits.

(c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.329.

(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.325(2)(g).

(4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:

(a) Affected townships and counties.

(b) Soil conservation districts.

(c) Property owners' associations.

(d) Other interested local organizations and citizens.

(5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.

(6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization appointing regular members to the zoning review board shall also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the

case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the zoning review board.

(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, for educational purposes, or to conduct any manner of business as provided for by these rules.

History: 1990 AACCS.

#### **R 281.332 Appeals; contested cases.**

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.

History: 1990 AACCS.

#### **R 281.333 Violations; effect; remedies.**

Rule 13. (1) Uses of land and dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed, or converted in violation of these rules are nuisances per se.

(2) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules. The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provisions of these rules. Any permit, variance, or action authorized that is contrary to the provisions of these rules is deemed illegal and invalid from the date of the authorization.

(3) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate violations or threatened violations and it is the duty of the commission to institute such action.

History: 1990 AACCS.

#### **R 281.334 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.**

Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.322.

(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to the provisions of sections 71 to 87 of Act No.306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws.

(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:

- (a) The county register of deeds.
- (b) Township and county clerks.
- (c) The local building inspector.
- (d) Local soil erosion and sedimentation control enforcement agencies.
- (e) The soil conservation district.

(4) Upon approval by the director, a local zoning ordinance which meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Au Sable river natural river district through court action or for any other reason, these rules shall apply.

History: 1990 AACs.